

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DUNCAN J. McNEIL, III,

Plaintiff,

V.

UNITED STATES, *et al.*,

Defendants.

CASE NO. 2:05-cv-587-F

ORDER

The plaintiff filed a notice of appeal on January 12, 2005 (Doc. #13). Pursuant to the provisions of the Prison Litigation Reform Act, 28 U.S.C.A. § 1915, plaintiff is required to pay the requisite \$255.00 fee for filing this notice of appeal. Accordingly, it is hereby ORDERED that:

1. If the funds in plaintiff's prison account exceed \$255.00, those persons having custody of the plaintiff shall forward to the Clerk of this court the \$255.00 appellate filing fee.
2. If the funds in plaintiff's prison account are less than \$255.00, those persons having custody of plaintiff shall:
 - a. Make the initial partial payment to this court equal to the greater of the following amount:
 - i. 20% of the average monthly deposits to plaintiff's account for the six-month period immediately preceding the date plaintiff

filed the notice of appeal; or

- ii. 20% of the average monthly balance in plaintiff's account for the aforementioned six-month period.
 - b. Make additional monthly payments of 20% of each preceding month's income credited to plaintiff's account until the balance of the \$255.00 fee is paid. These additional monthly payments shall be deducted from plaintiff's prison account each time the amount in this account exceeds \$10.00 until the \$105.00 filing fee is paid in full.
3. Where the appellate court enters a judgment against plaintiff for payment of costs at the conclusion of the appeal, including any unpaid portion of the required \$255.00 filing fee, those persons having custody of plaintiff shall continue making monthly payments to this court in accordance with the installment plan outlined in ¶2b above until the full amount of the ordered costs is paid.

To aid those persons having custody of plaintiff in complying with the requirements of this order, the Clerk of the court is DIRECTED to furnish a copy of this order to the inmate account clerk at the institution of plaintiff's confinement. The account clerk is advised that if plaintiff is transferred to another prison or detention facility the account clerk shall furnish this order to the appropriate official at the institution where plaintiff is transferred so that the custodial agency can assume the duties of collecting and forwarding

any remaining monthly payments to this court.

Plaintiff is advised that if, before plaintiff has paid \$255.00 filing fee, the appellate court disposes of plaintiff's appeal - - by dismissing the appeal for lack of jurisdiction, want of prosecution, or because it is frivolous, or by deciding the appeal on the merits - - plaintiff remains obligated to pay the \$255.00 filing fee. The filing fee will be collected from any funds which become available to plaintiff and will be forwarded to this court by those persons having custody of plaintiff pursuant to the directives contained in this order.

DONE this 6th day of December, 2005.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE